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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/594,534

11/22/2006

Kazuo Kuroda

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EXAMINER

DINH, TAN X

ART UNIT

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2627

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/594,534	Applicant(s) KURODA ET AL.	
	Examiner TAN X. DINH	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1) This application is a 371 of PCT/JP 2005/005867, filed on **3/29/2005**.

2) Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d) or (f). The certified copy of the priority documents have been received in this National Stage Application from the International Bureau (PCT Rule 17.2(a)).

The foreign document identifies as:

Japan 2004-096506, filed on **3/29/2004**.

3) The **I.D.S** filed **9/28/2006** has been considered by the Examiner. However, the foreign document(s), if they have not been written in English, are considered to the extent that could be understood from the English Abstract and the drawings.

Form **PTO-1449** or **PTO/SB/08** is(are) attached herein.

4) The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested:

OPTICAL RECORDING MEDIUM HAVING DUAL LAYERS OF RECORDING TRACKS IN DIFFERENT DIRECTIONS.

5) Claims **1-11** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

The phrase " directions of recording the record information being equal, in a particular recording area for focus-in of the laser light in said first recording layer and in at least one recording area of said second recording layer corresponding to the particular recording area " is unclear and cannot be understood. What is the meaning of this phrase ?.

Claim(s) 2-11 incorporate the indefiniteness of claim(s) 1 by virtue of their dependency thereon.

6) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

7) (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8) Claims *1,3,5 and 11*, as understood by the meaning of 112, 2nd above, are rejected under 35 U.S.C. 102(b) as being anticipated by ITO et al (5,881,032).

ITO et al discloses an information recording medium, as claimed in claim 1, comprising:

a first recording layer in which record information is recorded toward one direction directed from an inner circumferential side to

an outer circumferential side, or directed from the outer circumferential side to the inner circumferential side, by irradiating laser light thereon (Fig.1A, the direction of spiral track in layer L1); and

a second recording layer in which the record information is recorded toward another direction which is different from the one direction, by irradiating the laser light thereon (Fig.1B, the direction of spiral track in layer L1);

directions of recording the record information being equal, in a particular recording area for focus-in of the laser light in first recording layer and in at least one recording area of second recording layer corresponding to the particular recording area (Fig.12, the focus-in of first and second layers and the directions of recorded information is equal).

As to claim 3, ITO et al shows pre-address recorded in the one recording area is the same as the pre-address recorded in the particular recording area (Fig.1D, LIA 1a and LOA 1b).

As to claim 5, ITO et al shows ECC is recorded in the one recording area (Fig.11, ECC).

As to claim 11, ITO et al shows the one recording area is larger than the particular recording area (Fig.1D, LIA, LOA and data area).

9) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10) This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11) Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over ITO et al (5,881,032).

ITO et al disclose all the subject matter as claimed in claim 4, *except to specifically show that* the layer flag is recorded on one recording area (LIA or LOA). However, it has been generally

recognized in the multiple layers optical disc recording that the layer flag always record on management information areas (lead-in area, LIA or lead-out area, LOA) for identifying the particular layer during recording/reproducing processes. Therefore, to record layer flag in one recording area (LIA or LOA) as claimed is deem obvious to someone within the level of skill in the art.

12) Claims *2 and 6-10* would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant is reminded that in amending in response to a rejection of claims (if the rejection involves with any applicable arts), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

Form **PTO-892** is attached herein.

14) Any inquiry concerning this communication or earlier communications from the examiner should be directed to **TAN Xuan DINH** whose telephone number is **(571)272-7586**. The examiner can normally be

reached on **Monday - Friday** from **9:00AM** to **5:00PM**.

The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the **Patent Application Information Retrieval (PAIR)** system. Status information for published applications may be obtained from either **Private PAIR** or **Public PAIR**. Status information for unpublished applications is available through **Private PAIR only**. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the **Private PAIR system**, contact the **Electronic Business Center (EBC)** at **866-217-9197** (toll-free).

/TAN Xuan DINH/
Primary Examiner, Art Unit 2627
September 12, 2009